



UNITED STATES PATENT AND TRADEMARK OFFICE

SN

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,246	07/23/2003	Bruce McKendry	2312.67544	3186
24978	7590	01/25/2005		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER THOMPSON, MICHAEL M	
			ART UNIT 3763	PAPER NUMBER

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/625,246	MCKENDRY ET AL.	
	Examiner Michael M. Thompson	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/05</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-2, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson (4,857,051) or Silver et al. (6,257,847) in view of Adams (4,263,912). Larsson or Silver et al. both teach all of the limitations of the claims except for explicitly reciting a liner in the breast cup forming a pulsation chamber that receives air pressure. Adams teaches a breast cup with a liner that forms a pulsation chamber that receives air pressure for expressing milk. It would have been obvious to one of ordinary skill in the art, at the time of invention, to have modified the breast cup of Larsson or Silver et al. with a breast cup containing a liner as taught

Art Unit: 3763

by Adams for the well known purpose of mimicking the normal suckling action of an infant for improved lactation.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson (4,857,051) or Silver et al. (6,257,847) in view of Adams (4,263,912) as applied to claims 1-2, 4, and 7 above, and further in view of Niederberger (6,042, 560). Larsson (4,857,051) or Silver et al. (6,257,847) and Adams, (4,263,912) teach all of the limitations of the claims except for explicitly reciting a check valve. Niederberger teaches a check valve in the output of the air circuit. It would have been obvious to one of ordinary skill in the art, at the time of invention to have modified the output of the breast cup devices according to Larsson or Silver et al. ('847) with a check valve as taught by Niederberger for the well known purpose of releasing pressure as needed.

5. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson (4,857,051) or Silver et al. (6,257,847) in view of Adams (4,263,912) as applied to claims 1-2, 4, and 7 above, and further in view of Silver et al. (5,514,166). Larsson (4,857,051) or Silver et al. (6,257,847) and Adams, (4,263,912) teach all of the limitations of the claims except for explicitly reciting a vacuum control valve or an inlet filter of the second output. Silver et al. ('166) teaches both the vacuum control valve and an inlet filter of the second output. It would have been obvious to one of ordinary skill in the art, at the time of invention to have modified the devices of Larsson (4,857,051) or Silver et al. (6,257,847) and Adams, (4,263,912) to contain a vacuum control valve for the well known purpose of controlling the intensity and duration of the vacuum pressure for optimal express of milk and an inlet filter of the second output to prevent the milk and/or foreign bodies from reaching the pump mechanism.

Response to Arguments

6. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contacts

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Michael Thompson whose telephone number is (571) 272-4968. The Examiner can normally be reached on Monday through Friday from 9 am to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Nick Lucchesi, can be reached on (571) 272-4977. The official fax phone number for all submissions to the organization where this application or proceeding is assigned is (703) 872-9306.

Michael M. Thompson

Patent Examiner


MICHAEL M. THOMPSON
USPTO - PATENT EXAMINER
TELEPHONE (571) 272-4968

MT 

January 21, 2005